

The Adolf Eichmann Trial

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The Adolf Eichmann trial created hugely increased public awareness of the so-called Holocaust in Israel and worldwide.^[1] Deborah Lipstadt writes: “This trial, whose main objective was bringing a Nazi who helped organize and carry out genocide to justice, transformed Jewish life and society as much as it passed judgment on a murderer.”^[2]

Law professor Lawrence Douglas writes: “The Eichmann trial...remains the Great Holocaust Trial—the legal proceeding in which the tasks of doing justice to unprecedented crimes, clarifying a tortured history, and defining the terms of collective memory conjoined and collided in the most provocative fashion. Indeed, the Eichmann trial served to create the Holocaust...”^[3]

This article will show that the Eichmann trial was instead an unjust proceeding that augmented an already-false history of the so-called Holocaust.

Historical Background

Adolf Eichmann was abducted by Israeli agents in Argentina in May 1960. Given a choice between instant death or a trial, Eichmann chose to be the defendant in a criminal trial in Jerusalem that began on April 11, 1961.^[4]

The defense strategy in Eichmann’s trial is summarized on the Yad Vashem website:

The defense team [was] comprised of Dr. Robert Servatius and his assistant, Dieter Wechtenbruch. The defense did not contest the facts included in the indictment, opting instead to play down the responsibility of the accused for the crimes of the Nazi regime against the Jews. The defense depicted the accused as “a small cog in the state apparatus,” lacking influence upon the planning and operation of the murder machine. This line of defense stressed Eichmann’s hierarchical inability to defy the instructions of his superiors, and the fact that it was the heads of the Nazi regime, rather than Eichmann, who adopted the decisive criminal decisions.^[5]

As in the Nuremberg trials, almost all of the available documents were controlled by the prosecutors. With only two men on his defense team, Eichmann worked very hard throughout his trial and became the chief assistant to his defense counsel.[\[6\]](#)

The Israeli Mossad also spied on Dr. Servatius, and all of his consultations with Eichmann were closely monitored. This made it virtually impossible for the defense to spring any surprises during the trial.[\[7\]](#)

Eichmann underwent months of interrogation before securing defense counsel. Eichmann seemed to think at first that he would be kept alive in Israeli captivity only so long as he talked to his interrogator, Avner Less. The result of Eichmann's interrogations was 275 hours of tape and a transcript running to 3,564 pages.[\[8\]](#)

Consequently, the prosecution team had a huge advantage in Eichmann's trial. Former Israeli Supreme Court Judge Gabriel Bach states: "We were three prosecutors. We gathered millions of pages of documentation and read a great deal of background sources. I don't think I slept more than three hours every night throughout the trial...The German government was very cooperative and sent us a great deal of material."[\[9\]](#)

Servatius stated at the opening of Eichmann's trial that a fair trial was not possible in Israel. Servatius contested the legal basis of the trial and asked that the case against Eichmann be dismissed. Israeli Attorney General and chief prosecutor Gideon Hausner spent two and a half days rebutting Servatius's numerous challenges to Israel's legal right to conduct the trial. The three Israeli judges predictably ruled against Servatius and ordered the trial to continue.[\[10\]](#)

Eyewitness Testimony

The prosecution called 112 witnesses in Eichmann's trial. Testimony from Jewish eyewitnesses constituted the central element of the prosecution's case, with only one non-Jewish eyewitness called to testify.[\[11\]](#)

Gideon Hausner called numerous witnesses who had no connection with Adolf Eichmann. While much of this testimony was based on hearsay, the Jewish eyewitnesses transformed the trial from an important war-crimes trial to one that would have enduring significance.[\[12\]](#)

Dr. Servatius knew under the trial conditions in Israel he could not contest the official Holocaust story. Servatius, who was supposed to be defending Eichmann, was also fully aware that he could not garner sympathy for his client by aggressively challenging the Jewish eyewitnesses. Servatius thus decided to conduct almost no cross-examinations of the prosecution witnesses.[\[13\]](#)

Hannah Arendt confirmed that the prosecution witnesses were seldom cross-examined. Arendt wrote:

...the defense hardly ever rose to challenge any testimony, no matter how irrelevant and immaterial it might be" and "...the witnesses for the prosecution were hardly ever cross-examined by either the defense or the judges...[\[14\]](#)

When Dr. Servatius did contest a witness's testimony, his goal was to show that it had no relevance to Eichmann's activities. For example, when parts of Hans Frank's diary were read into evidence,

Servatius did not object to the diary's admission or the readings from it. On cross-examination of the witness through whom the diary was put into evidence, Servatius asked only one question: Was the name of Adolf Eichmann mentioned in any of these 29 volumes? Since the answer was no, Servatius was satisfied.[\[15\]](#)

Servatius also did not call any defense witnesses in Eichmann's trial. Most of the potential defense witnesses had been members of the Nazi Party, SD or SS. This meant that if they set foot in Israel they could be arrested under the same law under which Eichmann was being tried, and any testimony they gave in court was likely to be self-incriminating.[\[16\]](#)

The prosecution did allow affidavits from pertinent defense witnesses despite the fact that the prosecution would be unable to cross-examine these witnesses in court.[\[17\]](#) Several defense depositions were taken in German courts with Dieter Wechtenbruch appearing as Eichmann's defense counsel. However, these defense witnesses, who could be subject to prosecution in Germany for any incriminating statements made in their depositions, were of no help to Eichmann's defense.[\[18\]](#)

Nuremberg Testimony

The prosecution also used testimony and affidavits from the International Military Tribunal (IMT) at Nuremberg to convict Adolf Eichmann. For example, the prosecution entered into evidence Rudolf Höss's affidavit from the IMT that implicated Eichmann in the workings of Auschwitz-Birkenau. Rudolf Höss's memoirs, which stated that Eichmann had visited him in the summer of 1941 to discuss the use of poison gas, were also introduced into evidence.[\[19\]](#)

Rudolf Höss's testimony and affidavit should not have been allowed into evidence in Eichmann's trial because Höss underwent particularly brutal torture upon his arrest. Höss stated in his memoirs: "At my first interrogation, evidence was obtained by beating me. I do not know what is in the record, although I signed it."[\[20\]](#)

Additional proof that the torture of Rudolf Höss was exceptionally brutal is contained in the book *Legions of Death*. This book states that Sgt. Bernard Clarke and other British officers tortured Rudolf Höss into making his confession.[\[21\]](#) Obviously, such testimony obtained through torture should never have been admissible as evidence in Eichmann's trial.

The testimony of Dieter Wisliceny at the IMT was also used against Eichmann. Wisliceny claimed at the IMT that Eichmann showed him a written order signed by Heinrich Himmler for the physical extermination of the Jews.[\[22\]](#) The prosecution at the Eichmann trial used Wisliceny's testimony even though no written order from Himmler or anyone else to exterminate European Jewry has ever been found.

Film Evidence Presented at Trial

An excerpted and sliced version of *Nazi Concentration Camps*, the U.S. Army Signal Corps documentary shown to dramatic effect at the IMT, was shown in the 70th session of the Eichmann trial. This documentary was shown without soundtrack, and provided visual proof of the crimes of the so-called Holocaust. Gideon Hausner described the emaciated prisoners of war as "*figures of Musselmänner*"—that is, the death-camp inmates destined for the gas chamber because of their broken physical and psychological state."[\[23\]](#)

The prosecution at the Eichmann trial failed to mention that most of the inmates in these camps died of natural causes. When American and British forces took control of the German concentration camps, they were followed by military personnel charged with documenting evidence of German war crimes.

One of these was Dr. Charles P. Larson, an American forensic pathologist, who performed autopsies at Dachau and some of its sub-camps. Dr. Larson performed about 25 autopsies a day for 10 days at Dachau and superficially examined another 300 to 1,000 bodies. He autopsied only those bodies that appeared to be ambiguous. Dr. Larson stated in regard to these autopsies:

Many of them died from typhus. Dachau's crematoriums couldn't keep up with the burning of the bodies. They did not have enough oil to keep the incinerators going. I found that a number of the victims had also died from tuberculosis. All of them were malnourished. The medical facilities were most inadequate. There was no sanitation...

A rumor going around Dachau after we got there was that many of the prisoners were poisoned. I did a lot of toxicological analysis to determine the facts and removed organs from a cross-section of about 30 to 40 bodies and sent them into Paris to the Army's First Medical laboratory for analysis, since I lacked the proper facilities in the field. The reports came back negative. I could not find where any of these people had been poisoned. The majority died of natural diseases of one kind or another.... [24]

Dr. Larson did report that a number of inmates had been shot at some of the German camps, and that the living conditions in the camps were atrocious. [25]

Dr. John E. Gordon, M.D., Ph.D., a professor of preventive medicine and epidemiology at the Harvard University School of Public Health, was also with U.S. forces at the end of World War II. Dr. Gordon determined that disease, and especially typhus, was the Number One cause of death in the German camps. [26]

This and other medical evidence proving that most of the inmates in the Signal Corps documentary died of natural causes was not presented at Eichmann's trial. Obviously, such evidence would have undermined the prosecution's contention that inmates in the German camps died from a German policy of genocide.

Eichmann's Testimony

Eichmann sent a note to Servatius before his trial stating that he had few hopes of getting out alive. However, Eichmann wanted to tell the truth for the sake of his descendants. Eichmann stated: "They will know that their father, great-grandfather, and so on was no murderer. That alone matters for me, not just to survive." [27]

Eichmann emphasized in his testimony that he was obliged to follow orders and never acted on his own initiative. Eichmann could not testify that Germany did not have a program of genocide, since the Israeli judges would never have allowed such testimony. Instead, Eichmann portrayed himself as a cog in a machine who had always sought peaceful solutions rather than a murder program. Many news sources reported that Eichmann did a good job in answering Servatius's questions. [28]

Gideon Hausner's cross-examination of Eichmann lasted two weeks and turned ugly from the outset. A *New York Times* article stated that Hausner's "shrillness and posturing" made Eichmann look like a "clever and wily opponent." [29] A Dutch reporter observed: "...Eichmann has won on points. He turned

out to be of greater stature as a defendant than Hausner as a prosecutor.” [30] Despite his best efforts, Hausner was never able to get Eichmann to admit his guilt.

The three Israeli judges took turns asking Eichmann questions after Hausner’s cross-examination. Eichmann told the Israeli judges that he was not an anti-Semite, and in a few cases had attempted to help Jews. Eichmann stated that he had to follow the “orders by a supreme head of state,” and that he did the best he could under these circumstances. Eichmann’s testimony would seem not to have convinced the judges of his innocence. [31]

Conclusion

On December 11, 1961, the presiding judge in Eichmann’s trial handed down the death sentence. Adolf Eichmann was hanged six months later. Eichmann’s execution was the first in Israel’s history. [32]

Hannah Arendt wrote in regard to the Eichmann trial:

In Israel, as in most other countries, a person appearing in court is deemed innocent until proved guilty. But in the case of the Eichmann trial this was an obvious fiction. If he had not been found guilty before he appeared in Jerusalem, guilty beyond any reasonable doubt, the Israelis would never have dared, or wanted, to kidnap him; Prime Minister Ben-Gurion, explaining to the president of Argentina, in a letter dated June 3, 1960, why Israel had committed a “formal violation of Argentine law,” wrote that “it was Eichmann who organized the mass murder [of six million of our people], on a gigantic and unprecedented scale, throughout Europe.” In contrast to normal arrests in ordinary criminal cases, where suspicion of guilt must be proved to be substantial and reasonable but not beyond reasonable doubt-- that is the task of the ensuing trial—Eichmann’s illegal arrest could be justified, and was justified in the eyes of the world, only by the fact that the outcome of the trial could be safely anticipated. [33]

The three Israeli judges in Eichmann’s trial were also biased. This is implicitly acknowledged in the book *Eichmann Interrogated*, “It was a fair trial as far as the feelings of the judges permitted.” [34] Law professor Frank Tuerkheimer writes concerning Eichmann’s judges: “Aside from what they knew as educated persons, each of the three judges had left Germany for Palestine in the 1930s and it would be unusual if none of their extended families had emerged unscathed from the Holocaust.” [35]

In Israel, where emotions ran high concerning the so-called Holocaust, it was of course impossible for Eichmann to get a fair trial. The prohibition of the defense to question the reality of the Holocaust story, to cross-examine prosecution witnesses, to consult with Eichmann in confidence, to have the case heard by impartial judges, to contest testimony and evidence from the IMT, and the routine admission of hearsay evidence all ensured Adolf Eichmann’s conviction. The result was an unjust verdict that augmented a false history of the so-called Holocaust.

ENDNOTES

[1] http://www.aish.com/ho/i/The_Eichmann_Trial_50_Years_Later.html.

- [2] Lipstadt, Deborah E., *The Eichmann Trial*, New York: Schocken Books, 2011, p. xi.
- [3] Douglas, Lawrence, *The Memory of Judgment: Making Law and History in the Trials of the Holocaust*, New Haven, Conn.: Yale University Press, 2001, p. 6.
- [4] http://www.aish.com/ho/i/The_Eichmann_Trial_50_Years_Later.html.
- [5] http://www.yadvashem.org/yv/en/exhibitions/eichmann/proof_of_guilt.asp.
- [6] Arendt, Hannah, *Eichmann in Jerusalem: A Report on the Banality of Evil*: New York: Penguin Books, 2006, p. 244.
- [7] Cesarani, David, *Becoming Eichmann: Rethinking the Life, Crimes, and Trial of a "Desk Murderer"*, Cambridge, Mass.: Da Capo Press, 2006, pp. 247-248.
- [8] *Ibid.*, pp. 242-247.
- [9] http://www.aish.com/ho/i/The_Eichmann_Trial_50_Years_Later.html.
- [10] Cesarani, David, *Becoming Eichmann: Rethinking the Life, Crimes, and Trial of a "Desk Murderer"*, Cambridge, Mass.: Da Capo Press, 2006, pp. 258-259.
- [11] *Ibid.*, pp. 262, 268.
- [12] Lipstadt, Deborah E., *The Eichmann Trial*, New York: Schocken Books, 2011, pp. xx, 55.
- [13] *Ibid.*, p. 87.
- [14] Arendt, Hannah, *Eichmann in Jerusalem: A Report on the Banality of Evil*: New York: Penguin Books, 2006, pp. 9, 207.
- [15] *Ibid.*, p. 9; see also <http://digitalcommons.lmu.edu/cgi/viewcontent.cgi?article=1684&context=ilr>, pp. 403-404.
- [16] Cesarani, David, *Becoming Eichmann: Rethinking the Life, Crimes, and Trial of a "Desk Murderer"*, Cambridge, Mass.: Da Capo Press, 2006, p. 247.
- [17] See https://www.ushmm.org/online/film/display/detail.php?file_num=1732.
- [18] <http://digitalcommons.lmu.edu/cgi/viewcontent.cgi?article=1684&context=ilr>, pp. 413-415.
- [19] Cesarani, David, *Becoming Eichmann: Rethinking the Life, Crimes, and Trial of a "Desk Murderer"*, Cambridge, Mass.: Da Capo Press, 2006, pp. 205, 244.
- [20] Faurisson, Robert, "How the British Obtained the Confessions of Rudolf Höss", *The Journal of Historical Review*, Vol. 7, No. 4/Winter 1986-87, p. 393.
- [21] *Ibid.*, 392-399.
- [22] Cesarani, David, *Becoming Eichmann: Rethinking the Life, Crimes, and Trial of a "Desk Murderer"*, Cambridge, Mass.: Da Capo Press, 2006, p. 157.
- [23] Douglas, Lawrence, *The Memory of Judgment: Making Law and History in the Trials of the Holocaust*, New Haven, Conn.: Yale University Press, 2001, pp. 97-101.

[24] McCallum, John Dennis, *Crime Doctor*, Mercer Island, Wash.: The Writing Works, Inc., 1978, pp. 60-61.

[25] *Ibid.*

[26] Gordon, John E., "Louse-Borne Typhus Fever in the European Theater of Operations, U.S. Army, 1945," in Moulton, Forest Ray, (ed.), *Rickettsial Diseases of Man*, Washington, D.C.: American Academy for the Advancement of Science, 1948, pp. 16-27. Quoted in Butz, Robert, *The Hoax of the Twentieth Century*, Newport Beach, Cal.: Institute for Historical Review, 1993, pp. 46-47.

[27] Cesarani, David, *Becoming Eichmann: Rethinking the Life, Crimes, and Trial of a "Desk Murderer"*, Cambridge, Mass: Da Capo Press, 2006, p. 247.

[28] Lipstadt, Deborah E., *The Eichmann Trial*, New York: Schocken Books, 2011, pp. 107-115.

[29] *Ibid.*, p. 130; *New York Times*, July 16, 1961.

[30] Mulisch, Harry, *Criminal Case 40/61, the Trial of Adolf Eichmann: An Eyewitness Account*, Philadelphia: University of Pennsylvania Press, 2005, p. 141.

[31] *Ibid.*, pp. 131-138.

[32] Yablonka, Hanna, *The State of Israel v. Adolf Eichmann*, New York: Schocken Books, 2004, p. 140.

[33] Arendt, Hannah, *Eichmann in Jerusalem: A Report on the Banality of Evil*: New York: Penguin Books, 2006, pp. 209-210.

[34] *Eichmann Interrogated: Transcripts from the Archives of the Israeli Police*, New York: Farrar, Straus and Giroux, Inc., 1983, p. 293.

[35] <http://digitalcommons.lmu.edu/cgi/viewcontent.cgi?article=1684&context=ilr>, p. 403.

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